

RESOLUTION NO. R2021-65

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET,
TEXAS AUTHORIZING THE ACCEPTANCE OF A PUBLIC UTILITY
EASEMENT FROM H-E-B LOCATED NEAR THE INTERSECTION OF
EAST POLK STREET AND SOUTH SILVER STREET

WHEREAS, during the expansion of the H-E-B it was discovered that there was no easement authorizing the placement of the public water line running along the east side of the property; and

WHEREAS, H-E-B LP, wishes to dedicate a public utility easement to further facilitate the development of the project.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. That the recitals to this resolution are incorporated herein for all purposes.

Section two. Easement Agreement Approved. The Easement Agreement, as memorialized in the attachment hereto is hereby approved.


Section three. Authorization. The mayor is hereby authorized to execute an instrument in substantial form as the attachment hereto and take such further action as may be reasonably necessary to facilitate the purpose of this resolution.

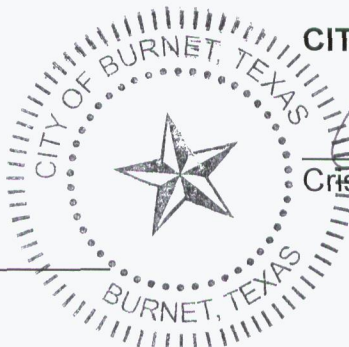
Section four. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

Section five. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

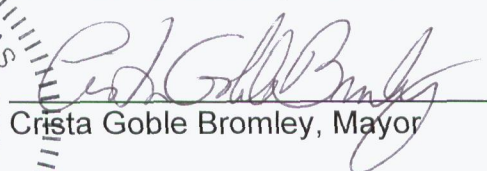
PASSED AND APPROVED this the 14 day of December, 2021.

ATTEST:


Kelly Dix, City Secretary



CITY OF BURNET, TEXAS


Crista Goble Bromley, Mayor



City of Burnet Public HEB Water Utility Easement

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PUBLIC UTILITY EASEMENT

**THE STATE OF TEXAS §
 §
COUNTY OF BURNET §**

KNOW ALL PERSONS BY THESE PRESENTS:

DATE: Dec. 14, 2021

GRANTOR: **H-E-B, LP, a Texas limited partnership**

GRANTOR'S MAILING ADDRESS (including County): **646 S. Flores Street
San Antonio, Texas 78204**

GRANTEE: **City of Burnet, Texas**

GRANTEE'S MAILING ADDRESS (including County): **P.O. Box 1369
1001 Buchanan Drive Suite #4,
Burnet, Burnet County, Texas 78611**

LIENHOLDER: **None**

CONSIDERATION: Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

EASEMENT AREA:

That certain tract of land being more particularly described by metes and bounds on Exhibit "A" attached hereto.

GRANTOR, for the **CONSIDERATION** paid to **GRANTOR**, hereby grants, sells, and conveys to **GRANTEE**, its successors and assigns, a non-exclusive, easement for all purposes necessary for installing, operating and maintaining water utility services within said easement, including but not limited to placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing or causing to be placed, constructed, operated, repaired, maintained, rebuilt, replaced, relocated and removed structures or improvements reasonably necessary for the supplying of water service in, upon, under and across the **EASEMENT AREA** more fully described and as shown in Exhibit "A" attached hereto.

GRANTOR and **GRANTOR's** heirs, successors, and assigns shall retain the right to use all or part of the **EASEMENT AREA** as long as such use does not interfere with **GRANTEE's** use of the **EASEMENT**

City of Burnet Public HEB Water Utility Easement

AREA for the purposes provided for herein; and **GRANTOR** shall not cause or allow any building or structure to be placed within the Easement Area. Notwithstanding the foregoing, **GRANTEE** expressly acknowledges that **GRANTOR** shall have the right to construct, maintain, repair, replace and remove roadways, streets, sidewalks, parking lots and landscaping in, on, over, across and through the **EASEMENT AREA**, provided such construction and maintenance does not interfere with **GRANTEE'S** use and operation of its facilities. **GRANTEE** shall have the right to eliminate any encroachments into the **EASEMENT AREA** that interfere with **GRANTEE's** use of the **EASEMENT AREA** as a Public Utility Easement.

GRANTEE's easement rights within the **EASEMENT AREA** shall be non-exclusive, and **GRANTOR**, its successors and assigns, shall have the right from time to time to grant further easements over, across, through, and under the **EASEMENT AREA** perpendicularly but not parallel, for any lawful purpose, provided that the holder of such easement does not unduly or unreasonably interfere with the Easement rights herein granted. This agreement does not constitute a conveyance of the above-described **EASEMENT AREA** or of the minerals therein and thereunder, but grants only an easement subject to the following: All presently recorded easements, rights-of-way, and prescriptive rights, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severance, and other instruments, other than liens and conveyances, that affect the **EASEMENT AREA** and that are enforceable against **GRANTOR** or **GRANTEE**.

The easement rights and privileges herein granted shall be for so long as **GRANTEE** or its assigns shall utilize the **EASEMENT AREA** for the purposes intended. The easement rights and privileges granted hereunder shall terminate automatically when or at such time as the easement is abandoned in writing by **GRANTEE**. Upon abandonment or termination of the easement, **GRANTEE** agrees to record a release of the easement in the Real Property Records of Burnet County, Texas within forty-five (45) days following request therefor.

TO HAVE AND TO HOLD the above-described easement, together with all and singular the rights and appurtenances thereto in anyway belonging unto **GRANTEE**, and **GRANTEE's** successors and assigns forever; and **GRANTOR** does hereby bind itself, its successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the easement unto **GRANTEE**, its successor and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

When the context requires, singular nouns and pronouns include the plural.

The remainder of this page is intentionally blank and signature page follows.

City of Burnet Public HEB Water Utility Easement

To be effective as of the date first stated above.

GRANTOR:

H-E-B, LP, a Texas limited partnership

By: [Signature]
Name: Benjamin R. Scott
Title: Vice President of Real Estate

THE STATE OF TEXAS

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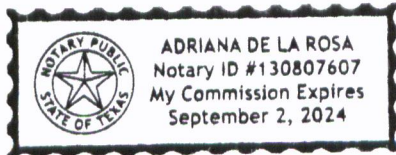
COUNTY OF BEXAR

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Benjamin R. Scott, Vice President of Real Estate of H-E-B, LP, a Texas limited partnership known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

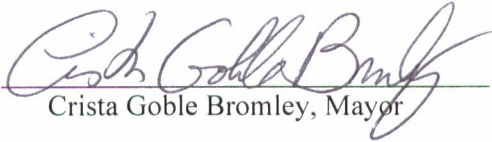
GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21 day of November, 2021.

(Personalized Seal)

[Signature]
Notary Public's Signature



AGREED AND ACCEPTED:
CITY OF BURNET, TEXAS,
a Texas home-rule municipality


By: 
Crista Goble Bromley, Mayor

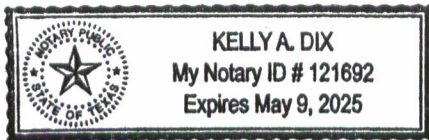
THE STATE OF TEXAS §
 §
COUNTY OF BURNET §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Crista Goble Bromley, mayor of the City of Burnet, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 14 day of December, 2021.

(Personalized Seal)

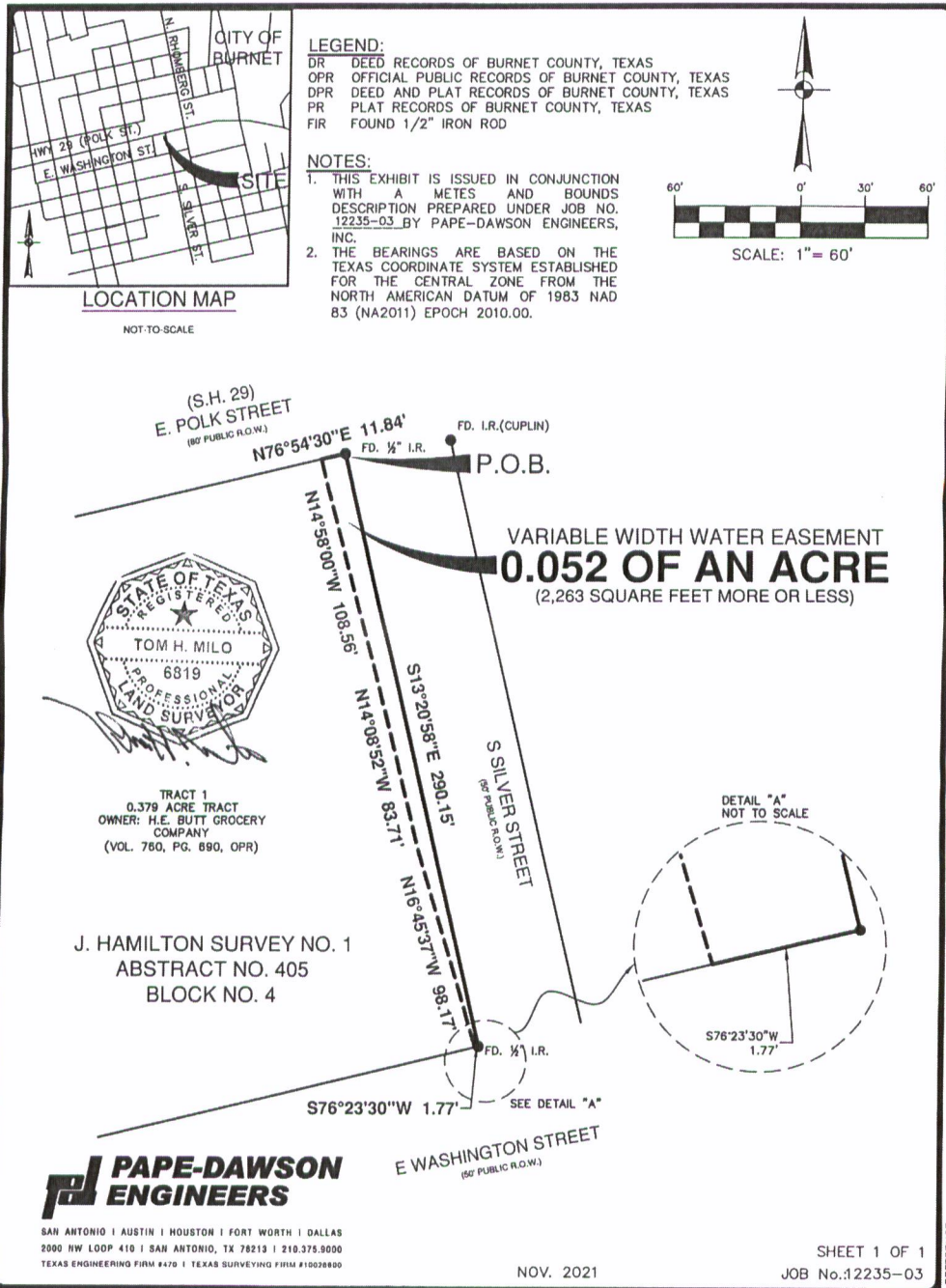

Notary Public's Signature



City of Burnet Public HEB Water Utility Easement

Exhibit "A"

Description of Easement Area





METES AND BOUNDS DESCRIPTION
FOR A VARIABLE WIDTH WATER EASEMENT

A 0.052 of an acre, or 2,263 square feet more or less, tract of land out of that 0.379 acre tract described to H.E. Butt Grocery Company in deed recorded in Volume 760, Page 690, of the Official Public Records of Burnet County, Texas, out of the J. Hamilton Survey No. 1, Abstract No. 405, Block No. 4, of the City of Burnet, Burnet County, Texas. Said 0.052 of an acre tract being more fully described as follows, with bearings based on the Texas Coordinate System established for the Central Zone from the North American Datum of 1983 NAD 83 (NA2011) epoch 2010.00:

BEGINNING: At the northeast corner of Tract 1, granted to H.E. Butt Grocery Company recorded in Volume 760, Page 690 of said Official Public Records lying on the south right-of-way line of East Polk Street (State Highway 29, an 80-foot public right-of-way, on the west right-of-way line of South Silver Street, a 50-foot public right-of-way;

THENCE: S 13°20'58" E, along and with said west right-of-way line of said South Silver Street, same being the east line of said Tract 1, a common line, a distance of 290.15 feet to a found ½" iron rod on the west right-of-way line of said South Silver Street, and the north right-of-way line of East Washington Street, a 50-foot public right-of-way, at the southeast corner of said Tract 1;

THENCE: S 76°23'30" W, along and with the south line of said Tract 1, same being the north line of said East Washington Street, a distance of 1.77 feet to a point;

THENCE: Departing said common line, over and across said Tract 1 the following bearings and distances:

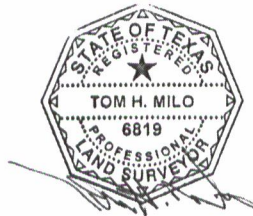
N 16°45'37" W, a distance of 98.17 feet to a point;

N 14°08'52" W, a distance of 83.71 feet to a point;

N 14°58'00" W, a distance of 108.56 feet to a point on the south right-of-way line of East Polk Street and the north line of said Tract 1;

THENCE: N 76°54'30" E, along and with said Tract 1 and said south right-of-way line a distance of 11.84 feet to the POINT OF BEGINNING and containing 0.052 of an acre in the City of Burnet, Burnet County, Texas. Said tract being described in conjunction with an exhibit prepared under job number 12235-03 by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: November 23, 2021
JOB NO. 12235-03
DOC. ID. N:\CIVIL\12235-03\Word\12235-03 FNWT 0.052AC.docx



Transportation | Water Resources | Land Development | Surveying | Environmental

telephone: 210-375-9000 address: 2000 NW LOOP 410 SAN ANTONIO, TX 78213 website: PAPE-DAWSON.COM
San Antonio | Austin | Houston | Fort Worth | Dallas | New Braunfels Texas Engineering Firm #470 Texas Surveying Firm #10028800

December 7, 2021

VIA FEDEX

Habib H. Erkan Jr.
Assistant City Manager
City of Burnet
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

Re: Public Utility Easement ("Easement") by and between City of Burnet, Texas ("Burnet") and H-E-B, LP ("HEB") pertaining to that certain tract of real property owned by HEB located at the corner of E. Polk Street and S. Silver Street in Burnet, Texas (the "Property")

Dear Habib:

Please find enclosed one (1) original Easement that has been executed and acknowledged by HEB in connection with the above-referenced matter.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Garrett Peery

:jjr
Enclosure



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Janet Parker, County Clerk

Burnet County Texas

12/15/2021 3:18:49 PM

FEE: \$50.00

202120491

ESMT